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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,186	10/08/2003	Hideo Teramoto	117479	5397
25944	7590	06/30/2009	EXAMINER	
OLIFF & BERRIDGE, PLC P.O. BOX 320850 ALEXANDRIA, VA 22320-4850			COBURN, CORBETT B	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/680,186	<b>Applicant(s)</b> TERAMOTO ET AL.
	<b>Examiner</b> Corbett B. Coburn	<b>Art Unit</b> 3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 19 August 2008.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-14,17-25 and 27-30 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-14,17-25 and 27-30 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-14, 17-25 & 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gamezone, Burnout Review, 2/12/2007 (<http://xbox.gamezone.com/gzreviews/r19113.htm>).

Regarding Claims 1 – 2, 6, 8, 10, Gamezone discloses an image generation method for generating an image including performing processing of moving first and second moving objects in an object space, generating an image viewed from a given viewpoint in the object space (p. 1, para. 1; where multiple cars race on a virtual track in a video game system and a non player controlled car is a second moving object and a player controlled car is a first moving object), performing processing of changing a value of a first parameter of the second moving object when it is determined that the first moving object and the second moving object have been in an approach relation, generating an action event in which action of the second moving object changes when it is determined that the value of the first parameter of the second moving object has reached a threshold value, and determining that the first and second moving objects have been in the approach relation when a time difference between the first and second moving objects becomes smaller than a given set time difference, wherein the time difference between the first and second moving objects is determined to be smaller than the given set time difference

when the first moving object is positioned within a given distance range which increases as a speed of the second moving object increases (p. 2, para. 5; where a “near miss” between two cars generates an award action change event which increases the amount of energy in a boost meter when two cars approach each other within a certain distance or time difference range, and where a threshold is a predetermined distance between two cars which qualifies as a distance to activate a near miss action change event), and resetting or decreasing the value of the first parameter of the second moving object which has changed due to the approach relation, when the first moving object is positioned outside first and second distance ranges which are set in front of and behind the second moving object, respectively, and leaving the value of the first parameter unchanged when the first moving object is positioned in the first distance range which is set in front of the second moving object, and changing the value of the first parameter of the second moving object at a higher change rate as a distance between the first and second moving objects increases in a direction which intersects a traveling direction at right angles when the first moving object is positioned in a third distance range which is set behind the second moving object (p. 2, para. 5; where a near miss can occur at any angle when two cars are approaching each other, where a first parameter is a boost meter of a non-player car which does not receive a boost, and where a second parameter is a boost meter of a car attempting a Near Miss action change event, which does change after the action change event).

While Gamezone does not teach automatically generating an action change event, it has long been held that automating a manual process is obvious. Furthermore, it is a matter of design choice that is well within the level of ordinary skill & would yield predictable results.

Gamezone does not specifically teach the second moving object passing the first moving object. Since this is a race game, it is clearly possible for cars to pass each other. Furthermore, it is well within the level of ordinary skill to have cars pass each other in a race game.

Regarding Claims 3 – 4 and 7, Gamezone discloses an image generation method, wherein the value of the first parameter of the second moving object is changed when the first moving object is positioned within the given distance range which increases as the speed of the second moving object increases and a ratio of a speed of the first moving object to the speed of the second moving object is equal to or greater than a given set ratio, wherein the value of the first parameter of the second moving object is changed at a higher change rate as the time difference between the first and second moving objects decreases (p. 2, para. 5; where a Burn Meter Score increases as more high pressure moves are completed, and increases faster as more complicated pressure moves are completed).

Regarding Claim 5, Gamezone discloses an image generation method, wherein the value of the first parameter of the second moving object is changed up to the threshold value when the time difference between the first and second moving objects is smaller than an intermediate set time difference which is smaller than the given set time difference, and the value of the first parameter of the second moving object is changed up to an intermediate value which is smaller than the threshold value when the time difference between the first and second moving objects is greater than the intermediate set time difference and is smaller than the given set time difference (p. 2, para. 5; where a Burn Meter Score increases during a Near Miss only if a player car is sufficiently close to another car).

Regarding Claim 9, Gamezone discloses an image generation method, wherein the third distance range is a distance range, but does not disclose a distance range which increases as a speed of the second moving object increases. However, it would have been obvious to one of ordinary skill at the time of the invention to have modified the image generation method with generic distance range which may or may not change as disclosed by Gamezone, with a specific variable distance range in order to increase challenge and excitement for a player by providing a more varied game experience.

Regarding Claims 11 – 14, Gamezone discloses an image generation method wherein, when a plurality of the second moving objects move in the object space, at least one of the threshold value and a change rate of the first parameter is set for each of the second moving objects, wherein at least one of the threshold value and the change rate of the first parameter of each of the second moving objects is set according to a relative relation between the first moving object and each of the second moving objects, wherein a length of the parameter display object is increased as the threshold value of the first parameter set for each of the second moving objects is greater, the parameter display object being displayed associating with each of the second moving objects (p. 2, para. 5; where a “near miss” between any two cars generates an award action change event when two cars approach each other within a certain distance or time difference range).

Regarding Claims 17 – 21, Gamezone discloses an image generation method, wherein the first parameter of the second moving object is a pressure parameter which virtually indicates a degree of pressure applied to the second moving object (p. 2, para. 5; where a Burn Meter Score increases as more high pressure moves are completed).

Regarding Claims 22 – 25, Gamezone discloses an image generation method, but does not disclose changing game sound to be output according to the change in the value of the first parameter. However, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the image generation method with sound (p. 3, Sound) of Gamezone with a changing sound for a pressure meter in order to increase audio feedback for a player as is notoriously well known in the art of video games, and specifically status related sound effects in video games.

Regarding claims 27-30, Gamezone describes a program that is inherently recorded on a computer readable medium.

**Regarding the of taking erroneous action,** Gamezone teaches taking an action based on the value of the first parameter of the second moving object reaching a threshold value. Gamezone does not teach that the action is an erroneous action, but the action taken by an object in a game program based on game conditions is a matter of design choice. One skilled in the art can make the object take any desired action. This is well within the level of ordinary skill & would yield predictable results. Furthermore, Applicant has shown no benefit to the chosen action over that taught by the prior art nor has there been any showing that these results attained were not predictable by one of ordinary skill.

***Response to Arguments***

3. Applicant's arguments filed 19 August 2008 have been fully considered but they are not persuasive.
4. Applicant argues that it is not obvious to have the second moving object take an erroneous action. Examiner disagrees.

5. First of all, a game programmer (one ordinarily skilled in the art) must make decisions about what any object on the screen will do based on any conditions that will be encountered in the game. This is particularly true of computer-controlled objects such as the second moving object. So a programmer MUST decide how the two cars behave in a near miss situation. Thus what the action taken by the second moving object is a design choice. And not only is it a design choice, the programmer is forced to make such a choice in designing the program. Failure to do so would result in a game that did not function.

6. Furthermore, the design choice would lead to a predictable result – it could not do otherwise. That is the whole point of the programmer making the choice. Unless there is a predictable result, then the program cannot function.

7. So why would the programmer cause the second moving object to make an erroneous action? Perhaps to more closely simulate driving. After all, when cars are involved in a near miss situation, it often causes one driver to swerve or brake harder than necessary. If the second moving object did not react in some way to the near miss, the simulation would lack realism. Thus one of ordinary skill would be motivated to make the choice claimed in order to increase the verisimilitude of the driving simulation.

8. Regarding Applicant's argument concerning "psychological warfare", this supposed benefit is not discussed in the specification. Examiner does not dispute that the "erroneous action" is enabled. But the supposed benefit is not elucidated in the specification, it cannot be used as an argument that this is a critical feature & not subject to design choice.

***Conclusion***

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corbett B. Coburn whose telephone number is (571) 272-4447. The examiner can normally be reached on 8-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Corbett B. Coburn/  
Primary Examiner  
Art Unit 3714